

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DONALD MONTGOMERY, ANDREW CARTER,
LOIS REID, KARL BECHLER, and “M.M.,” as
individuals, and on behalf of all other persons similarly
situated,

Plaintiffs,

- against -

ANDREW M. CUOMO, Governor of the State of New
York; ANN MARIE T. SULLIVAN, Commissioner of
the New York State Office of Mental Health;
MICHAEL C. GREEN, Executive Deputy
Commissioner of the New York State Division of
Criminal Justice Services; JOSEPH A. D’AMICO,
Superintendent of the New York State Police;
VINCENT F. DEMARCO, Suffolk County Sheriff’s
Department; and EASTERN LONG ISLAND
HOSPITAL,

Defendants.

14-cv-06709-CJS

**NOTICE OF
STATE DEFENDANTS’
MOTION SEEKING
LEAVE TO FILE THE
MOTION TO DISMISS
THE PLAINTIFFS’
AMENDED COMPLAINT
UNDER SEAL ON A
TEMPORARY BASIS**

PLEASE TAKE NOTICE that upon the accompanying Declaration of Monica
Connell, dated February 26, 2015; memorandum of law, dated February 26, 2015; and a
sealed envelope containing the State Defendants’ papers in support of their motion to
dismiss the Amended Complaint or, alternatively, to transfer venue (the “Motion to
Dismiss Papers”)¹; defendants Andrew M. Cuomo, Governor of the State of New York;
Ann Marie T. Sullivan, Commissioner of the New York State Office of Mental Health;

¹ The State Defendants’ Motion to Dismiss Papers consist of: (i) Notice of State
Defendants’ Motion to Dismiss the Amended Complaint or, Alternatively, to Transfer
Venue, dated February 26, 2015; (ii) Declaration of John B. Allen, Jr., dated February 25,
2015, with Exhibit A thereto; (iii) Declaration of Donna Marie Call, dated February 25,
2015, with Exhibits A to C thereto; (iv) Declaration of William J. Taylor, Jr., dated
February 26, 2015, with Exhibits 1 to 38 thereto; and (v) Memorandum of Law in
Support of the State Defendants’ Motion to Dismiss the Amended Complaint or,
Alternatively, to Transfer Venue, dated February 26, 2015.

Michael C. Green, Executive Deputy Commissioner of the New York State Division of Criminal Justice Services; and Joseph A. D'Amico, Superintendent of the New York State Police (collectively, the "State Defendants"), by their attorney, Eric T.

Schneiderman, Attorney General of the State of New York, will move this Court at the United State Courthouse, 100 State Street, Rochester, New York, at a date and time to be scheduled by the Court, pursuant to Rule 5.3 of the Local Rules of Civil Procedure for the United States District Court for the Western District of New York, and paragraph 2(o) of the Administrative Procedures Guide for Electronic Filing in the Western District of New York, for an order:

- (1) permitting State Defendants to submit their Motion to Dismiss Papers under seal temporarily in order to permit Plaintiffs the opportunity to review the Motion to Dismiss Papers and to make application for redaction or a longer seal they deem appropriate;
- (2) directing that in the absence of any objection to the public filing of the motion to dismiss, the Motion to Dismiss Papers be filed on the public record and be made publicly accessible on the Court's Case Management/Electronic Case Filing (CM/ECF) System;
- (3) further directing that in the event that Plaintiffs ask the Court to redact or seal the motion or portions of the motion, State Defendants be permitted to respond to such request and that all papers submitted in regard to State Defendants' motion to dismiss be held under seal pending further order of the Court on Plaintiffs' request for redaction or further sealing; and
- (4) granting such other and further relief as the Court deems just, proper and appropriate.

PLEASE TAKE FURTHER NOTICE that unless a shorter briefing schedule is imposed by the Court, answering papers, if any, to this motion, must be submitted within 14 days after service of this motion.

PLEASE TAKE FURTHER NOTICE that a proposed Order consistent with this motion is submitted herewith.

PLEASE TAKE FURTHER NOTICE that State Defendants respectfully
request the opportunity to submit a reply in support of the motion.

Dated: New York, New York
February 26, 2015

ERIC T. SCHNEIDERMAN
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Attorney for State Defendants
By:

s/ Monica Connell
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